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DIVISION X:

Chapter XX: School Protection Act

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XX.XX01 Purpose and Authority.

The purpose of this Chapter is to establish, pursuant to California Food and Agricultural Code sections 11503 and 11503.5, requirements on the agricultural use of pesticides on those persons engaged in commercial agriculture at sites adjacent to public and private school sites to protect the persons at the school sites from exposure to pesticides.

XX.XX02 Definitions.

For the purposes of this Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

- a) "Department" shall mean the Department of Agriculture/Weights and Measures of the County of San Bernardino.
- b) "Person" shall mean any person, firm, corporation, business or association.
- c) "Commercial agriculture" shall mean any person engaged in the business of raising crops, nursery stock, animals or producing animal products for profit.
- d) "Adjacent" shall mean sharing a common property line or point on the perimeter of the properties. Properties separated by a roadway or easement less than 100 feet wide shall be considered to be adjacent. Sub-lying parcels forming a single farming operation shall be considered as a single property; however, the requirement of this Chapter shall not extend to portions of an adjacent farming operation more than $\frac{1}{4}$ mile from the adjacent school.
- e) "Pesticide" is as defined in Food and Agricultural Code section 12753.
- f) "School site" shall mean any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of the property visited or used by pupils.

XX.XX03 Notification Requirement.

- (1) Any person intending to apply a pesticide subject to this chapter shall provide notification to the Agricultural Commissioner no less than 24 hours prior to the

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start of the pesticide application. Notification may be made in person, by phone or by fax in the same manner as the notification for applying a restricted material.

- (2) The date, time and method of the application, the pesticide to be applied, and the name of the adjacent school, day-care or pre-school shall be included in the notification.
- (3) The Agricultural Commissioner may forward all notifications received to the appropriate school district, pre-school or day-care center prior to the start of the application.

XX.XX04 Restrictions on Application Methods

The following restrictions on the method of application shall apply:

- (1) No pesticide shall be applied by aircraft to property subject to this chapter.
- (2) Pesticides applied by powered equipment when the application is to foliage or trees higher than 36 inches from the ground and the spray is not directed perpendicular to the ground, may not be applied within one hour of the business hours of the adjacent school, pre-school or day-care center.
- (3) Pesticides applied by a vector control agency or during a declared emergency are exempt from the restrictions on application methods.

XX.XX05 Restrictions on Timing

No pesticide bearing the signal word "DANGER-POISON" shall be applied within one hour of the start or opening of the adjacent school, preschool or day-care center or within two hours of their closing.

XX.XX06 Exemptions

The following types of pesticides are exempt from sections XX.xx03 and XX.xx05 of this chapter:

- (1) Pesticides bearing the signal word "CAUTION" on the product label unless the application method is by air or the spray is not directed downward.
- (2) Rodent control pesticides placed below ground regardless of toxicity level.
- (3) Pesticides bearing the signal word "WARNING" when applied using non-powered handheld or backpack sprayers.
- (4) Pesticides applied within a structure such as a greenhouse if the ventilation of the structure is not directed towards the school site.

XX.XX07 Violations

(a) Unless otherwise provided, any person violating any provision of this Chapter shall be guilty of an infraction or misdemeanor as hereinafter specified.

(b) Each day or portion thereof such violation is in existence shall be a new and separate offense.

(c) Any person so convicted shall be:

- (1) guilty of an infraction and punished by a fine not exceeding two hundred dollars (\$200.00) and not less than one hundred dollars (\$100.00) for a first offense;

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(2) guilty of a misdemeanor for the second and any additional offenses and punished by a fine not exceeding one thousand dollars (\$1,000.00) and not less than four hundred dollars (\$400.00) or six months in jail, or both.

(d) Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor if the violation created a health hazard.

(e) Payment of any fine or service of a jail sentence shall not relieve a person from the responsibility of correcting the condition resulting from the violation.

(f) In addition to all other remedies provided by this Chapter or State law, in the event of continuing violation of the provisions of this Chapter, the Department may seek injunctive relief to restrain further violation.

(g) In lieu of criminal prosecution, the Department may impose a civil penalty pursuant to the provisions of California Food and Agricultural Code section 12999.5 and section 6130 of Title 3 of the California Code of Regulations with the penalty range commencing in 3CCR 6130(a)(1)(B).

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